

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BINARY SEMANTICS LIMITED, :  
BINARY SEMANTICS, INC. :  
Plaintiffs, : Civil Action No. 4: 07-CV-1750  
v. :  
: (Judge McClure)  
MINITAB, INC., et.al., :  
Defendants. :  
:

**O R D E R**

May 1, 2008

**BACKGROUND:**

On September 25, 2007, plaintiffs Binary Semantics Limited and Binary Semantics Inc. (collectively “Binary”) commenced this civil action with the filing of a complaint against defendants Minitab, Inc., Barbara Ryan, Bruce Pincus, Patrick Sheehan, Asha Gopinath Menon, Malvinder Singh, and John Does 1-10. In its complaint, Binary set forth causes of action based upon the Racketeer Influenced and Corrupt Organizations Act (Counts I and II), the Computer Fraud and Abuse Act (Count III), Unlawful Use of a Computer under the Pennsylvania Penal Code (Count IV), Computer Theft under the Pennsylvania Penal Code (Count V), Unlawful Duplication under the Pennsylvania Penal Code (Count VI),

Computer Trespass under the Pennsylvania Penal Code (Count VII), Theft of Trade Secrets under the Pennsylvania Penal Code (Count VIII), Intentional Interference with Prospective Economic Advantage (Count IX), Negligent Interference with Prospective Economic Advantage (Count X), Unfair Competition (Count XI), Procuring Information by Improper Means (Count XII), Conversion (Count XIII), Unjust Enrichment/Restitution (Count XIV), Fraud (Count XV), Fraud/Fraudulent Inducement (Count XVI), Breach of Fiduciary Duty (Count XVII), Civil Conspiracy (Count XVIII), and claim for “An Accounting” (Count XIX).

On December 17, 2007, defendants Minitab, Barbara Ryan, Bruce Pincus, and Patrick Sheehan (collectively “the Minitab defendants”) filed a motion to dismiss. (Rec. Doc. No. 18.) On February 8, 2008, defendant Menon filed a motion to dismiss. (Rec. Doc. No. 36.)

On March 20, 2008, we granted the Minitab defendants’ motion in part, dismissing Counts I, II, IV, V, VI, VII, VIII, IX, X, XI, XVII and XIX.

On March 27, 2008, plaintiffs filed a motion for reconsideration. (Rec. Doc. No. 61.) On May 1, 2008 we granted the motion for reconsideration in part, vacating the portion of our previous order dismissing Count IX.

Because Menon’s motion to dismiss simply incorporates the arguments set

forth in the Minitab defendants' motion to dismiss and because our analysis of plaintiffs' claims are the same with respect to the Minitab defendants and Menon, we will grant the motion to the same extent that we granted the Minitab defendants' prior motion to dismiss, subject to our modification on May 1, 2008.

**NOW, THEREFORE, IT IS ORDERED THAT:**

Defendant Asha Gopinath Menon's motion to dismiss is GRANTED to the same extent as we granted the Minitab defendants' prior motion to dismiss, subject to our modification on May 1, 2008.

s/ James F. McClure, Jr.  
James F. McClure, Jr.  
United States District Judge